



ANDERSON TOWNSHIP PLANNING AND ZONING - STAFF REPORT

CASE NUMBER 7-2023 BZA

7247 AYERS ROAD

FOR CONSIDERATION BY THE BOARD OF ZONING APPEALS ON FEBRUARY 2, 2023

APPLICANT:	Emily & Ryan Heitkamp, property owners.		
LOCATION & ZONING:	7247 Ayers Road (Book 500, Page 264, Parcel 010) – “AA” Residence		
REQUEST:	A variance request to allow a 10’ x 14’ accessory structure located in the side yard area where accessory structures are only permitted in the rear yard, per Article 5.2, A, 7 of the Anderson Township Zoning Resolution.		
SITE DESCRIPTION:	<i>Tract Size:</i>	1.486 Acres	
	<i>Frontage:</i>	Approximately 466’ on Ayers Road	
	<i>Topography:</i>	Slightly sloped where house is located, very steep surrounding	
	<i>Existing Use:</i>	Single Family Residence	
SURROUNDING CONDITIONS:		<u>ZONE</u>	<u>LAND USE</u>
	North:	“AA” Residence	Single Family Residential
	South:	“AA” Residence	Single Family Residential
	East:	“AA” Residence	Single Family Residential
	West:	“AA” Residence	Single Family Residential
PROPOSED DEVELOPMENT:	The applicant is proposing an accessory structure (shed), size 10’x14’, in the side yard area with a front yard setback of 65’ and a side yard setback of 35’, where accessory structures are only permitted in the rear yard area per Article 5.2, A, 7 of the Anderson Township Zoning Resolution. This accessory structure is a prefabricated shed and will be finished with landscaping.		
HISTORY:	The house was constructed in 1987 and purchased by the current property owners, Emily & Ryan Heitkamp, in May 2012		
	In November of 2022, the applicant applied for a zoning certificate for this accessory structure in the side yard area. The applicant was directed to the Board of Zoning Appeals application materials.		
	There is no permit, BZA, or code enforcement history on this property.		
FINDINGS:	Staff is of the opinion that the variance is not substantial. While the accessory structure would be located in the side yard area, the shed would have a front yard setback of 65’ and a side yard setback of 35’. This would be outside of the required front yard setback of 50’ and required side yard setback of 25’. Due to		

the distance of the shed to Ayers Road, the foliage at the front of the property, and the natural incline of the property, the location of the shed is not substantial.

The essential character of the neighborhood would not be altered, and adjoining properties would not suffer a substantial detriment as a result of the variance. The proposed structure is in the side yard area; however, due to the placement of the shed near the end of the driveway closest to the house, it would not be visible from Ayers Road and because of foliage, would only be slightly visible to their neighbors to the south and west. The shed is proposed to be similar aesthetically to the house and the neighborhood and would not be out of place or out of character for the neighborhood. Nearby properties to the west and south also have sheds.

The variance would not adversely affect the delivery of governmental services.

The property owner's predicament could not be feasibly obviated through some method other than a variance. The steep topography of the property does not allow for an accessory structure to be built on any other portion of the property other than the side yard. The rear yard has a steep drop off composed of trees and brush, leaving only enough room for a deck that is fenced in. Additionally, the lot is irregularly shaped with over 400' of frontage; most of their acreage would be considered front yard area.

Staff is of the opinion that the spirit and intent behind the zoning requirement would be observed by granting the variance. While the accessory structure is located in the side yard, there is no usable rear yard area where a shed can be built because of the steep topography. Also, due to the foliage in the front and distance from Ayers Road, the variance is not substantial, and the essential character of the neighborhood would also not be altered.

**STANDARDS TO
BE CONSIDERED:**

The aforementioned variance requested should be evaluated on the following criteria:

- (1) The property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.
- (2) The variance is substantial.
- (3) The essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance.
- (4) The variance would not adversely affect the delivery of governmental services (i.e. water, sewer, garbage).
- (5) The property owner purchased the property with knowledge of the zoning restrictions.

- (6) The property owner's predicament can be feasibly obviated through some method other than a variance.
- (7) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Disclaimer: This staff recommendation is based on the facts known to the author at the time the recommendation was made. Staff attempted to use those known facts to analyze the relationship of those facts to the standards set forth in the Zoning Resolution for the particular issue and property before the BZA, and in keeping with past decisions of the BZA. The BZA members have an obligation to consider all of the evidence that is entered into this case during the BZA hearing through the sworn testimony of the witnesses, as well as the documents submitted as part of the witnesses' testimony. The staff recommendation should be considered as part of the evidence before you. The Zoning Resolution empowers the BZA to make reasonable interpretations of the Zoning Resolution, to judge the credibility and reliability of the witnesses, and to decide each case based on the evidence presented during the BZA hearing process.